

RD AN No. 4196 (1980-D)
July 10, 2006

TO: All State Directors
Rural Development

ATTENTION: Rural Housing Program Directors,
Guaranteed Rural Housing Specialists,
Rural Development Managers, and
Community Development Managers

FROM: Russell T. Davis (*Signed by Russell T. Davis*)
Administrator
Housing and Community Facilities Programs

SUBJECT: Single Family Housing Guaranteed Loan Program
Condominium Requirements

PURPOSE/INTENDED OUTCOME:

The purpose of this Administrative Notice (AN) is to clarify Single Family Housing Guaranteed Loan Program (SFHGLP) condominium requirements, and how to determine if the condominium has been approved or accepted by the United States Department of Housing and Urban Development (HUD), Veteran Affairs (VA), Fannie Mae (FNMA), or Freddie Mac (FHLMC).

COMPARISON WITH PREVIOUS AN:

This AN replaces RD AN No. 4081, dated May 4, 2005 that is hereby retired.

EXPIRATION DATE:
July 31, 2007

FILING INSTRUCTIONS:
Preceding RD Instruction 1980-D

BACKGROUND:

Condominium projects and their units are invariably served by homeowners associations. RD Instruction 1980-D, section 1980.311(c), states in part that:

“A dwelling served by a homeowners association (HOA) may be accepted when the project has been approved or accepted by HUD, VA, Fannie Mae, or Freddie Mac.”

Dwellings served by HOA's can be under three types of projects: Planned Unit Development (PUD), cooperatives, or condominiums. Other than condominiums, this AN does not apply to any dwellings served by an HOA.

Ineligible Properties

Certain types of condominium projects are not eligible under HUD, Fannie Mae, Freddie Mac, or VA guidelines. They are:

- Condominium hotels
- Timeshares
- Houseboat projects
- Multi-dwelling unit condominiums that permit an owner to hold title to more than one dwelling by a single deed and mortgage
- Any project for which the owner's association is named a party to current litigation or for a project that has not been turned over to the association for which the project sponsor or developer is named a party to current litigation
- Condominiums that represent a legal, but non-conforming use of the land, if zoning regulations prohibit rebuilding the improvements to current density in the event of their full or partial destruction

Lender Self Certification and Warranty

HUD, Fannie Mae, and Freddie Mac have delegated to lenders the authority to warrant that condominium projects meet their requirements. Lenders have the ability to “self certify” or warrant that condominiums purchased by Fannie Mae or Freddie Mac, or insured by HUD, meet the minimum requirements of those entities. Lenders can warrant that they have reviewed condominium documentation, that the condominium meets the requirements of HUD, Fannie Mae, or Freddie Mac, and that the documentation remains available in the lender file for verification purposes. The documentation containing the information necessary to determine if a condominium would be approved by HUD, Fannie Mae, or Freddie Mac are:

- a condominium questionnaire, and
- the condominium's master hazard insurance policy.

Neither the condominium questionnaire nor the master hazard insurance policy has form numbers. Condominium master hazard insurance policies are issued by insurance companies. Each insurance company uses its own letterhead and format. The lender reviews the master insurance policy to determine the type of coverage and whether the policy offers coverage sufficient to meet requirements.

The condominium questionnaire typically is sent to the condominium HOA on the lender's letterhead. It contains questions about the number of units in the condominium project, how many of the units have been sold or rented, whether all the common areas have been 100 percent completed, and other questions concerning the condominium project.

The condominium's HOA officer or managing agent completes the questionnaire and returns it to the lender, who then reviews the questionnaire responses in order to determine whether HUD, Fannie Mae or Freddie Mac requirements have been fulfilled. The lender must retain all of the documentation in case HUD, Fannie Mae or Freddie Mac wish to examine it in order to determine that the lender's certification or warranty was truthful and correct.

In every case, the lender is responsible for keeping a copy of the condominium questionnaire, the condominium's master hazard insurance policy, and any other related documents in the lender's file. The lender does not produce the condominium documentation unless requested by HUD, Fannie Mae or Freddie Mac. Lenders retain the condominium documentation in file for audit purposes.

Lenders do not issue individual certifications or warranties to HUD, Fannie Mae, or Freddie Mac for each condominium unit. The warranty is part of the master contract between the lender and HUD, Fannie Mae, and Freddie Mac. By simply stating the project classification on the Uniform Underwriting and Transmittal Summary (Fannie Mae Form 1008, Freddie Mac Form 1077) the lender certifies that the condominium unit meets the requirements.

For the purpose of providing detail on what a lender certification or warranty attests to, please see attached Table 1 for HUD requirements, Table 2 for Freddie Mac requirements, and Table 3 for Fannie Mae requirements.

HUD Condominium Types

As seen in Table 1, HUD has only two condominium types. They are "Proposed and New Construction" and "Approved New Projects with Construction Complete". Table 1 illustrates the differences between the two as it pertains to project phases, owner occupancy ratios, and other requirements.

Freddie Mac Condominium Types

As seen in Table 2, Freddie Mac has three condominium types: Class I, Class II, and Class III. The different requirements between each of these condominium types are stratified on Table 2.

Fannie Mae Condominium Types

As seen in Table 3, Fannie Mae six condominium types: Type P, Type Q, Type R, Type S, Type T, and Type U. Types P, Q and S have two subcategories each with different requirements.

VA Requirements

The VA has not delegated to lenders the authority to warrant condominium projects. VA reviews each condominium's organizational documents for compliance with VA regulations, and notifies the lender in writing of VA's approval. The lender should retain the VA documentation in the lender's file, and it should be available upon request.

IMPLEMENTATION RESPONSIBILITIES:

Participating lenders may certify to Rural Development that they have reviewed the condominium documentation, and that the condominium is in compliance with HUD, VA, Fannie Mae, or Freddie Mac guidelines. Rural Development's Condominium Certification Form (Exhibit A) is attached to this Administrative Notice. Its use is optional. Aside from the lender certification to Rural Development, all condominium documentation should remain in the lender's file and should be available upon request. The documentation must be provided if no certification is submitted.

When there is an indication that a condominium unit or project does not meet the requirements of HUD, VA, Fannie Mae or Freddie Mac, the Agency will request additional documentation from the lender. If the condominium unit or project does not meet the stated requirements as certified or warranted by the lender, the Agency may refuse to issue a conditional commitment or loan note guarantee.

Should there be any questions concerning this AN, please contact Stuart Walden or Joaquín Tremols, Single Family Housing Guaranteed Loan Division at (202) 720-1452.

Attachments:

Table 1 - HUD Condominium Requirements

Condo Type	Primary Residence	Subject to Phasing/Add-ons	Completion of the common elements and amenities	Pre-Sale Requirements (number of units sold or conveyed prior to the sale of the subject property).	Owner Occupancy Ratio Requirements	Control of Condominium Association	MasterHazard, Flood, Earthquake, Liability, & Fidelity Coverage
Proposed and New Construction (Excludes Manufactured Homes)	Yes	Yes	Not Required	70%	51%	Developer	Hazard: Replacement Liability: \$1 million
Approved New Projects with Construction complete (Excludes Manufactured Homes)	Yes	Not subject to phasing or add-ons	Required	80%	80%	Developer or unit owners	100% Replacement exclusive of land, foundation, & excavation

Table 2 - Freddie Mac Condominium Requirements

Condo Type	Primary Residence	Subject to Phasing/Add-ons	Completion of the common elements and amenities	Pre-Sale Requirements (number of units sold or conveyed prior to the sale of the subject property).	Owner Occupancy Ratio Requirements	Control of Condominium Association	Master Hazard, Liability, & Flood Coverage
Class I	Yes	May be subject to phasing or add-ons.	Required	70%	70% by owners as Primary or 2 nd Homes	Developer	Hazard: Replacement Liability: \$1 million Flood: "FEMA" requirements
Class II	Yes	Not subject to phasing or add-ons	Required	60%	60% by owner as Primary or 2 nd Homes	Unit Owners	Hazard: Replacement Liability: \$1 million Flood: "FEMA" requirements
Class III	Yes	Not subject to phasing or add-ons	Required	90%	60% by owner as Primary or 2 nd Home	Unit owners have been in control for at least 1 year	Hazard: Replacement Liability: \$1 million Flood: "FEMA" requirements

Table 3 - Fannie Mae Condominium Requirements

Condo Project Classification Type	Primary Residence	Subject to Phasing/Add-ons	Completion of the common elements and amenities for project or subject legal phase	Pre-Sale Requirements (Number of units sold or conveyed prior to the sale of the subject property).	Owner Occupancy Ratio Requirements	Control of Condominium Association	Liability, Hazard, & Flood Coverage
Type P Lender-Delegated Limited Reviews of New Projects	Primary and Second Homes	Yes	Required	None	None	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: "FEMA" requirements
Type P Lender-Delegated Reviews of Detached Condominiums	Primary and Second Homes	Yes	Not Required	None	None	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: "FEMA" requirements
Type Q Lender-Delegated Limited Reviews of Established Condominium Projects	Primary and Second Homes	Yes	Required	None	None	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: "FEMA" requirements
Type Q Lender-Delegated Limited Reviews of Detached Condominium Projects	Primary and Second Homes	Yes	Not Required	None	None	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: "FEMA" requirements

Type R Lender-Delegated Expedited Project Review of a New Project (Fannie Mae's Condo Project Manager “CPM” must be used)	Primary, Second and Investor	Yes	Required	“CPM” will determine; 50% or less	“CPM” will determine; 50% or less	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: “FEMA” requirements Fidelity Bond if project consists of > 20 units.
Type S Lender-Delegated Expedited Project Review of Established Projects	Primary, Second and Investor	Not subject to add phasing or add-ons	Required for entire project. (Including Master Association if applicable	90 % conveyed	50% primary or second homes	Unit owners	Liability: \$1 million Hazard: Replacement Flood: “FEMA” requirements
Type S Lender- Delegated Expedited Project Review of Established 2-4 Unit Projects	Primary, Second and Investor	Not subject to add phasing or add-ons	Required for entire project. (Including Master Association if applicable	50% (2 Units) 67% (3 Units) 75% (4 Units)	50% (2 Units) 67% (3 Units) 75% (4 Units)	Developer or unit owners	Liability: \$1 million Hazard: Replacement Flood: “FEMA” requirements
Type T Fannie Mae Review * See Footnote							
Type U FHA-Approved Projects * See Footnote							

Footnotes to Table 3 – Fannie Mae (FNMA) Condominium Requirements

Type P: Lender-Delegated Limited Reviews of New Projects

1. Units must be owned Fee Simple or FNMA acceptable Ground Lease.
2. Unit owners must have sole ownership interest and rights to the use of project's facilities, common elements, and limited common elements once control of the association is turned over.
3. Primary Residences to 80% Loan To Value.
4. Second Homes to 75% Loan To Value.

Type P: Lender-Delegated Reviews of Detached Condominiums

1. Units must be owned Fee Simple or FNMA acceptable Ground Lease
2. Unit owners must have sole ownership interest and rights to the use of the project's facilities, common elements, and limited common elements once control of the owner's association is turned over.
3. Subject Unit must be fully detached.

Type Q: Lender-Delegated Limited Reviews of Established Condominium Projects

1. Units must be owned Fee Simple or FNMA acceptable Ground Lease
2. Unit owners must have sole ownership interest and rights to the use of the project's facilities, common elements, and limited common elements once control of the owner's association is turned over.
3. Primary Residences to 80% Loan To Value.
4. Second Homes to 75% Loan To Value.

Type Q: Lender-Delegated Limited Reviews of Detached Condominium Projects

1. Units must be owned Fee Simple or FNMA acceptable Ground Lease.
2. Unit owners must have sole ownership interest and rights to the use of project's facilities, common elements, and limited common elements once control of the association is turned over.
3. Subject Unit must be fully detached.

Type R: Lender-Delegated Expedited Project Review of a New Project (Fannie Mae's Condo Project Manager "CPM" must be used)

1. No single entity other than the developer during the initial sales period may own more than 10% of the total units.
2. Projects with less than 10 units cannot allow a single entity to own more than 1 unit.
3. If more than 50% of the total units are expected to be sold to investors, lender must contact FNMA and request a waiver.

Footnotes to Table 3 – Fannie Mae (FNMA) Condominium Requirements Continued

4. Units must be owned Fee Simple.
5. Lender will review and accept separate legal phases on a phase-by-phase basis.
6. Project must be a gut-rehab conversion or new construction
7. Project can't exceed 200 units.

Type S: Lender-Delegated Expedited Project Review of Established Projects

1. Unit owners must have sole ownership interest and rights to the use of the project's facilities, common elements, and limited common elements once control of the owner's association is turned over.
2. Units must be owned Fee Simple or FNMA acceptable Ground Lease
3. No single entity may own more than 10% of the total units.

Type S: Lender-Delegated Expedited Project Review of New and Established 2-4 Units projects

1. Unit owners must have sole ownership interest and rights to the use of the project's facilities, common elements, and limited common elements once control of the owner's association is turned over.
2. Units must be owned Fee Simple or FNMA acceptable Ground Lease
3. Each small condominium must have its own separate legal documents
4. No one entity may own more than one unit.

Type T: Fannie Mae Review ("1028")

1. Projects consisting of Manufactured Housing whether new or established must be submitted to Fannie Mae for review.
2. Other condominium projects that must be submitted to Fannie Mae for review are new projects with one or more of the following characteristics
 - a. The project consists of 200 or more units
 - b. The project is built on a leasehold estate
 - c. The project is an apartment-to-condominium conversion that is not a gut-rehabilitation. (Gut-rehabilitation refers to the renovation of a property down to the shell with replacement of all HVAC and electrical components)

Footnotes to Table 3 – Fannie Mae (FNMA) Condominium Requirements Continued

Type U: FHA Approved Projects

1. Fannie Mae will purchase or securitize loans secured by condominium units in projects that have been approved by FHA.

When a lender delivers a loan secured by a condominium unit on an FHA-approved project, the lender makes the warranty of project eligibility set forth in Fannie Mae's Selling Guide Part XII: Section 105, Warranty of Project Eligibility. In addition the lender must represent and warrant that:

- a. The FHA approval conditions noted on FHA's Web site, including, but not limited to, presale and occupancy requirements, have been met.
 - b. The project is not an ineligible project as defined in Fannie Mae's Selling Guide Part XII: Section 102, Ineligible Projects.
 - c. The project is covered by the required insurance as set forth in Fannie Mae's Selling Guide Part XII, Chapter 7, Insurance Requirements.
 - d. The project is not comprised of manufactured homes.
2. Lenders may search for FHA-approved condominium projects by location, name, or project status online at <https://entp.hud.gov/idapp/html/condlook.cfm>. Lenders must maintain printed copies of the FHA-approved documentation in the loan file.

Exhibit A

Condominium Certification

This warranty certifies the dwelling served by the homeowners association and identified below has been approved or accepted by HUD, VA, Fannie Mae, or Freddie Mac. Documentation supporting this certification will be maintained in the lender's files and will be available for inspection by Rural Housing Service, United States Department of Agriculture upon request.

Borrower: _____

Property Address: _____

Lender: _____

Representative Name: _____

Representative Signature: _____